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**COMMENTS**

Application of: K. R. THOMAS, et al.  
Application No.: 09/898,255  
Filed: July 3, 2001  
For: METHOD AND SYSTEM OF SETTING  
AND/OR CONTROLLING OF A FOOD PRODUCT  
DISPENSING MACHINE USING A TAG-TYPE  
COMMUNICATION DEVICE

Attorney Docket No.: 88265-4040

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: K. THOMAS et al.

Confirmation No.: 1910

Application No.: 09/898,255

Group Art Unit: 2876

Filed: July 3, 2001

Examiner: Daniel St. Cyr

For: METHOD AND SYSTEM OF SETTING  
AN/OR CONTROLLING OF A FOOD  
PRODUCT DISPENSING MACHINE USING  
A TAG-TYPE COMMUNICATION DEVICE

Attorney Docket No.: 88265-4040

**TALKING POINTS FOR TELECONFERENCE**  
**SCHEDULED FOR TUESDAY, FEBRUARY 10, 2004****NOT FOR ENTRY INTO THE FILE**

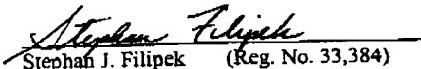
Dear Examiner St. Cyr:

It was a pleasure speaking with you earlier this week. According to your request, listed below are the various issues that I would like to discuss with you during the teleconference scheduled for Tuesday, February 10, 2004 at 10am. Please note that this is an informal paper, and is not intended for entry into the file wrapper of this application.

- Discuss the format of independent claim 21; it should be acceptable in its present form.
- Concerning the 102(b) rejection, the Wright patent does not teach a programmable tag that has been programmed at the manufacturing plant with either instructions or a verification code in electronic form, as recited in pending claim 1.
- Discuss possible changes for independent claims 12 and 30.

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Stephan J. Filipek (Reg. No. 33,384)

- Concerning the 103(a) rejection, Japanese Publication 411230554 ("Masataka") does not teach an RFID tag. Masataka teaches a cooking method that includes mounting a responder 2 on a package 1, placing the package 1 in an electronic oven 3, and then switching on a start button 5 to transmit a cooking procedure program to the oven (see page 2 of the English-language Abstract and Fig. 1). Passive or active RFID tags do not require a user to press a button-- data is read automatically once the RFID tag is in the vicinity of the tag reader.
- In addition, one skilled in the art would not combine the teachings of Wright with Masataka because Wright specifically teaches a microwave oven for use with a food package that has a predetermined shape, and wherein the package includes a printed code in a predetermined position (for example, see claim 1 of Wright). The microwave oven has a shaped cavity 24 that matches the shape of the package, so that the printed code is lined up correctly for reading by a code reader when the package is inserted into the oven (see col. 5, lines 10-26 of Wright). Thus, there is no teaching, suggestion or motivation to combine Wright with Masataka, since Masataka does not require a package having a predetermined shape or an oven with a shaped cavity to match the package.
- Paragraph 7 of the Action rejects claims 4, 10 and 23 in view of Wright based on the observation that affixing a tag to an interior surface of the package is a design choice. However, Wright cannot print an optical code or bar code on the interior of his package because such codes require a line of sight to the reader. Moreover, Wright teaches away by specifically requiring the code to be printed on the outside of the package (see col. 6, lines 11-16).
- On page 5 of the Action, line 10, there is a reference to "Ishikawa et al." which is not understood. Should this have been Masataka?
- In paragraph 8, independent claim 18 was rejected for being unpatentable over Wright in view of Buckley et al. However, neither reference, alone or in combination, teaches the step of "sorting the information to determine consumption patterns for the foods or beverages that are dispensed" as recited in claim 18.

I look forward to discussing this case with you next week. In the meantime, should you have any questions please call me at (212) 294-2649.

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